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10/787,283

02/26/2004

Daniel E. Tedesco

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06/09/2008

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EXAMINER

COUGHLAN, PETER D

ART UNIT

PAPER NUMBER

2129

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/787,283 | Applicant(s) TEDESCO ET AL. | |
| | Examiner PETER COUGHLAN | Art Unit 2129 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18 and 27-75 is/are pending in the application.
- 4a) Of the above claim(s) 27-60 and 62-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/26/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This office action is in response to an AMENDMENT entered September 28, 2007 for the patent application 10/787283 filed on February 26, 2004.
2. All previous Office Actions are fully incorporated into this Non-Final Office Action by reference.
3. Examiner's Comment: Although, the terms medium or memory are not specifically mentioned within the claims, the Examiner states possible rejection under 35 U.S.C. §101 if they were. Paragraph 0048 states, 'Computer readable medium as used herein refers to any medium that participates in providing instructions to a processor for execution. Such a medium may take the forms, including but not limited to, non-volatile media, volatile media, and transmission media.' 'Transmission media may carry acoustic or light waves, such as those generated during radio frequency (RF) and infrared (IR) data communications.' Transmission media can not be equated as computer readable medium under 35 U.S.C. §101.

Status of Claims

4. Claims 18, 27-75 are pending.

Claim Rejections

5. 37 CFR 1.145. Subsequent presentation of claims for different invention.

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§1.143 and 1.144.

Election by Original presentation.

Newly submitted claims 27-60, 62-75 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Although these claims are similar, they do represent distinct invention from the original invention. Claims 27-51 would fall under classification 348/155. 'Monitoring rule' of applicant can map to a 'motion detector.' Claims 52-60 would fall under 349/161. 'Matches a reference image' of applicant can map to 'object comparison.' Claims 62-75 would fall under the classification of 348/152. 'Emergency' of applicant can map to 'intrusion detection.'

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-60, 62-75 are withdrawn from

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consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The phrase "human activity is desired to be substantially nonexistent" in claim 18 is a relative term which renders the claim indefinite. The phrase "human activity is desired to be substantially nonexistent" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This threshold of 'substantially' needs to be clearly defined. The Examiner views a single terrorist and harmful as 3 terrorist. Yet it could be stated that 1 is substantially less than 3.

This claim needs to be amended or withdrawn from consideration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubats, in view of Matsumoto, in view of Abrams. (U. S. Patent 5559496, referred to as **Dubats**; U. S. Patent 4245245, referred to as **Matsumoto**; U. S. Patent Publication 20020138847, referred to as **Abrams**)

Claim 18

Dubats anticipates receiving an image from an image capture device. (**Dubats**, C1:5-22; 'Receiving an image' of applicant is disclosed by the function of a 'camera' of Dubats.) in which the image capture device generates an image of an area in which human activity is desired to be substantially nonexistent (**Dubats**, abstract, Figure 1; 'Area in which human activity is desired to be substantially nonexistent' of applicant is disclosed by detecting 'intrusion of nontransparent objects' of Dubats.); determining information related to the area (**Dubats**, abstract; 'Determining information' of applicant is equivalent to 'estimates approximate size, speed and direction characteristics' of Dubats.); receiving a request for a first user to monitor (**Dubats**, C8:36-43; 'Request for a first user to monitor' of applicant is equivalent to 'operator selects instantaneous reporting' of Dubats.); receiving a user identifier (**Dubats**, C8:45-54; 'User identifier' of applicant is equivalent to 'a password ID to proceed with RPS operation' of Dubats.);

verifying that the user identifier corresponds to the first user (**Dubats**, C8:45-54; 'Verifying that a user identifier' of applicant is equivalent to 'user identification software routine' of Dubats.) providing the first user with the image. (**Dubats**, C8:45-65; 'providing an image' of applicant is equivalent to 'monitor existing remote stations for activity on a real time basis' of Dubats.)

Dubats does not teach receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image; an indication of uncertainty whether a human is present in the image.

Matsumoto teaches receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image; an indication of uncertainty whether a human is present in the image. (**NOTE-Dubats**, Figure 1; 'Human' of applicant is depicted by silhouette of soldiers of Dubats.) (**Matsumoto**, C20:45-64; 'Human is present' of applicant would be a response of 'yes' of Matsumoto. 'No human is present' of applicant would be a response of 'no' of Matsumoto. 'Uncertainty whether a human is present' of applicant would be a response of 'maybe' of Matsumoto.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the teachings of Dubats by offering three choices as evaluations as taught by Matsumoto to have receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is

present in the image; an indication of uncertainty whether a human is present in the image.

For the purpose of being able to using the response for future evaluation by combining numerous responses with an evaluation algorithm.

Dubats and Matsumoto do not teach providing additional users with the image; receiving responses to the image by the additional users.

Abrams teaches providing additional users with the image (**Abrams**, ¶0014; 'Plurality of remote viewers' of applicant is disclosed by 'multiple user' of Abrams.); receiving responses to the image by the additional users. (**Abrams**, ¶0014; It is inherent that a user who provides surveillance would respond if the situation dictates.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the combined teachings of Dubats and Matsumoto by using multiple users as taught by Abrams to providing additional users with the image; receiving responses to the image by the additional users.

For the purpose of avoiding the high error cost of a single user by using redundant users.

Dubats teaches evaluating the received responses determining, based on the information related to the area, an entity to notify, and notifying the entity. (**Dubats**, C9:26-46; 'Evaluating the received responses' of applicant is achieved by the 'object designation expert system' of Dubats. 'Determination' of applicant is disclosed by the

'confidence level' of Dubats. 'Notifying the entity' of applicant is illustrated by the generation of 'screen report' of Dubats.)

Claim 61

Dubats teaches receiving an image of an object from an image capture device situated in a particular area. (**Dubats**, C1:5-22; 'Receiving an image' of applicant is disclosed by the function of a 'camera' of Dubats.)

Dubats and Matsumoto routing the image of the object to a plurality of remote viewers; requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object.

Abrams teaches routing the image of the object to a plurality of remote viewers (**Abrams**, ¶0014; 'Plurality of remote viewers' of applicant is disclosed by 'multiple user' of Abrams.); requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object. (**Abrams**, ¶0014; It is inherent that a user who provides surveillance would respond if the situation dictates.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the combined teachings of Dubats and Matsumoto by having multiple users as taught by Abrams to route the image of the object to a plurality of remote viewers; requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object.

For the purpose of avoiding the high error cost of a single user by using redundant users.

Dubats teaches receiving, from each remote viewer of the plurality of remote viewers, the indication of whether the image of the object matches the reference image of the particular object. (**Dubats**, C9:26-46; 'Indication of whether the image of the object matches the reference image' of applicant is disclosed by the 'confidence level' of Dubats.)

Examination Considerations

7. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has the full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

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8. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and sprit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Examiner's Opinion: Paragraphs 7 and 8 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

10. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure.

- U. S. Patent Publication 20020175995: Sleeckx
- U. S. Patent Publication 20020008758: Broemmelsick
- U. S. Patent Publication 20020170064: Monroe
- U. S. Patent Publication 20020147982: Naidoo
- U. S. Patent Publication 20020049979: White
- U. S. Patent Publication 20020016971: Berezowski
- U. S. Patent Publication 20010056579: Kogane

-U. S. Patent 6385772: Courtney

11. Claims 18, 61 are rejected.

Claims 27-60, 62-75 are withdrawn.

Correspondence Information

12. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner Peter Coughlan, whose telephone number is (571) 272-5990. The Examiner can be reached on Monday through Friday from 7:15 a.m. to 3:45 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor David Vincent can be reached at (571) 272-3080. Any response to this office action should be mailed to:

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Randolph Building,

401 Dulany Street,

Alexandria, Virginia 22313,

(located on the first floor of the south side of the Randolph Building);

or faxed to:

(571) 272-3150 (for formal communications intended for entry.)

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/P. C./

Examiner, Art Unit 2129

Peter Coughlan

5/19/2008

/Joseph P. Hirl/

Primary Examiner, Art Unit 2129